IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE G. BIKSHAPATHY
WRIT PETITION NO : 15243 of 1994

Between:
Sk. Abdul Khader S/o. Mohd. Ahmed, Aged about 43 years, Occ.Employer, R/o. Guntur.

..... PETITIONER

AND

1 The Asst,. Labour Officer-I, Guntur, A.P.
2 The Asst. Commissioner of Labour, 2nd Circle, Guntur, A.P.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Direction or Order particularly one in the nature of Writ of Mandamus declaring that the order of the 2nd respondent dated 4-8-1994 passed in M.W.Case No.66/1994, in File No. C/2251/94 is illegal, arbitrary and violative of Art.14 of the Constitution of India apart from being violative of the principles of natural justice and consequently direct the 2nd respondent to permit the petition to contest the case No.MW.66/1994 on the file of the 2nd respondent and pass such further or other order or orders.

Counsel for the Petitioner:MR.T.LAKSHMI NARAYANA

Counsel for the Respondent No.: GP FOR SOCIAL WELFARE

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The Court made the following:

RDER:

1. This Writ Petition is filed challenging the order passed by the second respondent-Assistant Commissioner of Labour in MW Case No. 66 of 1994 in File No. C/2551/94.

2. The Assistant Labour Officer-1 filed a claim against the petitioner claiming difference of minimum wages as prescribed in G.O.Ms No. 55 dated 8.4.1991. The petitioner herein was called on to file his counter if any, with a direction to attend the court for enquiry on 27.5.1994. On the said day he could not be present due to illness therefore, he was set ex-parte and ex-parte order was passed on 16.4.1994. Against the same, he filed an application to set aside the ex-parte order. However, the learned authority refused to set aside the ex-parte order. Therefore, the present Writ petition has been filed.

3. The learned counsel appearing for the petitioner submits that when the matter was posted on 27.5.1994 he was not well therefore, the authority ought to have adjourned the matter to a further date. Even an application was made for setting aside the ex-parte order on the ground that the petitioner was sick and the same was not opposed by the respondents. Therefore, the learned counsel submits that the matter requires re-consideration in the hands of the authority.

4. Heard the learned counsel appearing for the petitioner and also the learned Government Pleader for Social Welfare.

5. As can be seen from the proceedings, the petitioner was not heard and he could not be present as he was sick on the relevant

date. In order to render substantial justice to the parties, I find that one more opportunity should be given to the petitioner to defend the case before the authority.

6. Accordingly, the impugned orders are set aside and the matter is remitted back to the second respondent for fresh consideration. The second respondent shall issue notice to the petitioner and pass appropriate orders within a period of four months form the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is allowed. No costs.

Ka 17.06.2004.

ASSISTANT REGISTRAR

To

1 The Assistant Labour Officer-I, Guntur, A.P.
2 The Assistant Commissioner of Labour, 2nd Circle, Guntur, A.P.
3. 2 CCs to G.P for Social Welfare, High Court Buildings, High Court of AP, Hyderabad.
4. 2 CD copies.